

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

July 17, 2003

A meeting of the Board of Environmental Protection was held on Thursday, July 19, 2003, at the Holiday Inn / Ground Round facility in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:30 a.m. with the following individuals present:

Board: Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler, and Matt Scott

Absent: Irving Faunce

Note: There is currently one vacancy

Staff: Bureau of Land and Water Quality
Bureau of Land and Water Quality
Bureau of Land and Water Quality
Bureau of Land and Water Quality

Judy Gates
Marybeth Richardson
Robbin Clukey
Linda Kokemuller

Others: Brooke Barnes, Deputy Commissioner
Mary Sauer, Assistant Attorney General
Cynthia S. Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Brooke Barnes, Deputy Commissioner, reported the following:

Ozone: This years ozone monitoring efforts have logged 11 days of unhealthy ozone for sensitive groups with 9 of those days unhealthy due to high fine particulate levels. Improving air quality continues to be a challenge since our 2 major sources are difficult to control: (1) out of state power and industrial sources, and (2) mobile sources. Controls on auto emissions are not popular here or elsewhere. For hourly tracking of ozone forecast individuals may visit the Department's web-page.

The Governor will be signing a letter to EPA regarding non-attainment for the 8 hour standard in Maine. The area of non-attainment is the greater Portland Metropolitan and two additional communities in coastal regions.

Department Staffing:

David Lennett, Director of the Bureau of Remediation and Waste Management has submitted his resignation effective August 22nd. Dave is returning to his former career in private consulting to allow for more flexibility in schedule and family time.

Director for Land and Water Quality - Interviews for David VanWie's replacement begin next week.

B. CHAIRMAN'S COMMENTS:

The Chair welcomed Matt Scott of Belgrade to the Board and provided an overview of Mr. Scott's educational and work related experience.

The Chair noted that Cindy has been working on several procedural issues which will be the subject of a workshop or two this fall. He thanked Nancy Ziegler for her effort, in conjunction with Cindy, to look at the issue of when a vote of the Board is final. Other issues for future discussion include Board guidance on when an application may be withdrawn, and possible discussion of Permit by Rule.

C. EXECUTIVE ANALYST COMMENTS:

Cynthia Bertocci provided copies of the following court filings and decisions to Board members:

- US PIRG has appealed the Board's decision on the Salmon Aquaculture General Permit to Superior Court.
- The Hansen's have appealed the Board's decision on their PBR application for replacement of a home in Delano Park, Cape Elizabeth to Superior Court.
- The Maine Supreme Judicial Court upheld the Board's decision on the tax certification for Low NO_x burners for Androscoggin Energy LLC.

D. BOARD CALENDAR:

Reviewed:

Noted: BEP site visit regarding China Lake is tentatively set for August 7th

E. DEPARTMENTAL ORDERS:

Reviewed

F. EXECUTIVE SESSION:

None

II. CONSENT AGENDA ITEMS

The Board voted (8-0-0-2) to approve the agenda items 1, 2, and 3 as presented.

1. STEELSTONE INDUSTRIES, INC., Houlton – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
2. P. HUSSEY, INC., So. Berwick – Administrative Consent Agreement (BLWQ – Land)
3. BRIAN NELSON, Lincoln – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

III. Regular Agenda

1. CHINA LAKE WATER LEVEL (post to public hearing)

The Board voted (8-0-0-2) on a motion to post the public hearing concerning China Lake Water Level for August 21, 2003 beginning at 9:00 a.m. in Augusta with an evening session beginning at 6:00 p.m. at the China Middle School on Route 202 in China. The vote was taken pursuant to 06-096 CMR Chapter 2 and Chapter 30.

Board members Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent and there is one vacancy.

Staff member: Cynthia S. Bertocci, Executive Analyst, Board of Environmental Protection

2. YOURSAMINE, L.L.C. / Pier, Ramp and Float Construction Denial (appeal by applicant)

The Board voted (5-3-0-2) on a motion to direct the Department to re-draft an order approving construction of the proposed permanent pier with seasonal ramp and float with the condition that a Phase I Archeological Survey of the site be conducted prior to construction; and modifying Condition #3 of Department Order L-13160-L3-Y-M to require Department review and approval of renovation designs for Lots 69 and 70. The vote was taken pursuant to 38 M.R.S.A. Section 481 et seq. and –0-096 CMR Chapter 2.

Board members Ernest Hilton, Katharine Littlefield, Melford Pelletier, Virginia Plummer and Nancy Ziegler voted to support the motion. Board members Richard Wardwell, Jean T. Wilkinson and Matt Scott voted opposed. Board member Irving Faunce was absent and there is one vacancy.

2. TOWN OF FORT KENT / Multi-Use Trail (appeal by Dr. Priscilla Staples)

The Board voted (8-0-0-2) on a motion to deny the appeal filed by Dr. Priscilla Staples and affirm the commissioner's decision granting an after-the-fact permit for the Multi-Use Trail in Fort Kent. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D(4) and 480-A to 480-Z, and 06-096 CMR Chapter 2.

Board members Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent and there is one vacancy.